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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/768,565	01/29/2004	Karla Weaver	10123/00801	6338	
7590 09/06/2006		EXAMINER			
Patrick J. Fay, Esq. FAY KAPLUN & MARCIN, LLP			SMITH, I	SMITH, PAUL B	
Suite 702	& WIMCIN, EEI		ART UNIT	PAPER NUMBER	
150 Broadway New York, NY 10038			3763		
			DATE MAILED: 09/06/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(s) Ap				٧
## Examiner		Application No.	Applicant(s)	_
Paul B. Smith 3763 Paul B. Smith 3763 Parlod for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. BY NO period for reply is specified above, the maximum statutory period will apply and will expense XIK, 90 MONTH from the remaining date of this communication. BY NO period for reply is specified above, the maximum statutory period will apply and will expense XIK, 90 MONTH from the remaining date of this communication. BY NO period for reply is specified above, the maximum statutory period will apply and will expense XIK, 90 MONTH from the remaining date of this communication. BY NO period for reply is specified above, the maximum statutory period will apply and will expense XIK, 90 MONTH from the remaining date of this communication. BY NO period for reply is specified above, the maximum statutory period will apply and will expense XIK, 90 MONTH from the remaining date of this communication. Paul to reply septiment from the remaining date of this communication. BY NO period for reply is specified above, the maximum statutory period will apply and will expense XIK, 90 MONTH from the remaining date of this communication. Paul to reply septiment from the remaining date of this communication. BY NO period for reply is specified above, the maximum statutory period will apply and will expense XIK, 90 MONTH from the remaining date of this communication. BY NO period for reply is specified above, the maximum statutory period will apply and will reply septiments. BY NO period for reply is specified above, the maximum statutory period will period the reply septiments. BY NO period for reply is specified above, the maximum statutory period will period for formal maximum statutory period will period for formal period formal period formal period form		10/768,565	WEAVER ET AL.	
The MAILING DATE of this communication appears on the cover sheet with the correspondence address ─ Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Editections of time may be available under the provision of 30° CRT 1.13(b), no event, however, may a righy be briefy filed If NO period for righy is specified above, the maximum statutory period with apply and will expire 31X (8) MONTHS from the making date of this communication for righy is specified above, the maximum statutory period will apply and will expire 31X (8) MONTHS from the making date of this communication. Failure for reply within the side or excended period for reply all patients, cause in a specified above, the maximum statutory period will apply and will expire 31X (8) MONTHS from the making date of this communication. Failure for reply within the side or excended period for reply all patients. Failure for reply within the side or excended period for reply via by the received period for reply. Prior and the communication of the maximum statutory period will apply and under the communication. **Prior prior the maximum statutory period will apply and under the communication. **Prior prior prior the making date of this communication. **Prior prior	Office Action Summary	Examiner	Art Unit	
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1) Responsive to communication(s) filed on 29 January 2004. 2a) ☐ This action is FINAL. 2b) ☑ This action is non-final. 3. ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) ☑ Claim(s) 1-19 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) ☐ Claim(s) is/are allowed. 6) ☑ Claim(s) 1-19 is/are allowed. 6) ☑ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or election requirement. Application Papers 9) ☐ The specification is objected to by the Examiner. 10) ☒ The drawing(s) filed on 02 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received. 2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) ☒ Notice of Dratsperson's Patent Drawing Review (PTO-948) 3) ☒ Information Disclosure Statement(s) (PTO/SBIO8) 5) ☐ Notice of Dratsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Dratsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Dratsperson'	WHICHEVER IS LONGER, FROM THE MAILING D - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period Failure to reply within the set or extended period for reply will, by statut Any reply received by the Office later than three months after the mailing	PATE OF THIS COMMUNICATION 136(a). In no event, however, may a reply be ting will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONE	N. mely filed the mailing date of this communication ED (35 U.S.C. § 133).	
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a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) 5) Notice of Informal Patent Application	Priority under 35 U.S.C. § 119			
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2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) ☑ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) ☑ Information Disclosure Statement(s) (PTO/SB/08) 1 ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date 5) ☐ Notice of Informal Patent Application	·	ts have been received	•	
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DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 6/16/2005 and
 6/22/2006 are acknowledged. The submission is in compliance with the provisions of
 37 CFR 1.97. Accordingly, the examiner considers the references cited therein.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 3. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Mikhail *et al.* ('357).
- 4. Mikhail *et al.* discloses a catheter comprising a flow control membrane (38). The flow control membrane comprises a plurality of slits (76). The slits are substantially symmetrical about either a line of symmetry, diameter, major axis or a point. (See Figures 21-35) The flow control membrane is composed of silicone rubber. (See Column 18 Lines 46-58) The flow control membrane is taught to be shapes other then circular such as oval. (See Column 27 Lines 64-65)

Application/Control Number: 10/768,565 Page 3

Art Unit: 3763

5. Thus, it appears that Mikhail *et al.* disclose every element of claims 1-19.

Conclusion

- 6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - a. U.S. Patent 6,726,063 B2 to Stull et al.
 - b. U.S. Pre-Grant Publication 2002/0,121,530 to Socier
 - c. U.S. Pre-Grant Publication 2004/0,186,444 to Daly et al.
- 7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul B. Smith whose telephone number is 571-272-6022. The examiner can normally be reached on 8 am 4 pm.
- 8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
- 9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Art Unit: 3763

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul B Smith Examiner Art Unit 3763

PBS August 31, 2006

> NICHOLAS D. LUCCHESI SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 3700